

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
DAMIAN MILHOUSE,

Plaintiff,

-against-

24-cv-0611 (LAK)

THE CITY OF NEW YORK, et al.,

Defendants.  
----- x

**ORDER**

LEWIS A. KAPLAN, *District Judge*.

Defendants City of New York, Mayor Eric Adams, former Mayor Bill de Blasio, former Department of Corrections (“DOC”) Commissioners Louis Molina, Cynthia Brann, and Vincent Schiraldi, DOC Correctional Officers (“COs”) Jose Pichardo and Edlee Jordan, and DOC Captain Andre Blake have moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) (Dkt 26). In a thorough report and recommendation dated December 6, 2024 (the “R&R”) (Dkt 35), Magistrate Judge Katherine H. Parker recommended that the motion be denied with respect to the excessive force and deliberate indifference to medical care claims against Captain Blake, CO Jordan, and CO Pichardo, and granted with prejudice as to claims relating to the January 22, 2021 vermin bite and without prejudice in all other respects. No objections to the R&R have been filed.

The motion (Dkt 26) is granted in its entirety except that it is denied with respect to the excessive force and deliberate indifference to medical care claims against Captain Blake, CO Jordan, and CO Pichardo. This ruling is without prejudice to a motion, provided any such is filed on or before January 27, 2025, for leave to amend. Any such motion shall be accompanied by a proposed amended complaint, a copy of that complaint marked to show changes from the original complaint, and a memorandum showing that the proposed changes would not be futile.

SO ORDERED.

Dated: January 7, 2025



\_\_\_\_\_  
Lewis A. Kaplan  
United States District Judge

